



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,474	09/23/2003	Heinz Hermann Wippersteg	2725	2948

7590 11/01/2007
STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington, NY 11743

EXAMINER

BENGZON, GREG.C

ART UNIT	PAPER NUMBER
----------	--------------

2144

MAIL DATE	DELIVERY MODE
-----------	---------------

11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,474

Applicant(s)

WIPPERSTEG, HEINZ HERMANN

Examiner

Greg Bengzon

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5, 7-21, 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This application has been examined. Claims 1,3-5, 7-21, 23-25 are pending.
Claims 2,6,22 are cancelled.

Making Final

Applicant's arguments filed 08/20/2007 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*said receiver generates question postings*' -- and -- '*said server generates answers in the form of services in response to the question postings*' -- do not overcome the disclosure by the prior art as applied in the prior Office Action, as shown below.

The Examiner is maintaining the rejection(s) using the same grounds for rejection and thus making this action FINAL.

Priority

This application claims benefits of priority from Foreign Application 10245169.9 (GERMANY) filed September 26, 2002.

The effective date of the claims described in this application is September 26, 2002.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 21 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5, 21 recites a limitation '*wherein said server makes said required information available in timely manner*'. The term "*timely manner*" is a relative term which renders the claim indefinite. The term "*timely manner*" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3-5,8,12-14, 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Frees (US Patent 6769013).

Frees disclosed (re. Claim 1,18,19) a system based on electronic data exchange, in which the data exchange occurs between a plurality of users by means of at least one data exchange system and each of said users is operable as both a server and a receiver of information, (Frees-Figure 16, Figure 17, Column 2 Lines 25-35)

wherein at least one user of at least one data transmission network generates required information according to specific standards,(Frees-Column 15 Lines 15-20)

said at least one user functioning as said server, (Frees-Column 12 Lines 60-65)
and

Art Unit: 2144

said receiver generates question postings (Frees-Column 12 Lines 60-65) which are transmitted to the server according to specific standards (Frees-Column 15 Lines 15-20, 'user enter standard process information', Column 18 Lines 1-5) and said server generates answers in the form of services standards (Frees-Column 12 Lines 60-65) in response to the question postings and transmits said answers to said receiver according to specific (Frees-Column 15 Lines 15-20, 'user enter standard process information', Column 18 Lines 1-5)

Frees disclosed coaching and brainstorming among collaboration members using various information exchange tools. The Examiner notes that said coaching, consulting and brainstorming conversations would include question and answer portions.

Frees disclosed (re. Claim 19) wherein said server makes said required information, adjusted to said needs of said at least one other user, available to said at least one other user in the form of a service. (Frees-Column 7 Lines 20-30)

Frees disclosed (re. Claim 3) wherein server groups identify themselves as services that are accessible to said at least one user. (Frees-Column 5 Lines 1-5, Column 7 Lines 20-30)

Frees disclosed (re. Claim 4,20) wherein said server defines access rights to said service. (Frees-Column 11 Lines 25-30)

Frees disclosed (re. Claim 5,21) wherein said server makes said required information available in timely manner as part of said service and makes said required information, adjusted to said needs of said at least one other user operating as said receiver, available to said at least one other user. (Frees-Column2 Lines 25-35)

Frees disclosed (re. Claim 6) wherein said receiver generates question postings, which are transmitted by means of said at least one data transmission network to said server providing said service and wherein said service of said server comprises answering said question postings. (Frees-Column 15 Lines 35-40)

Frees disclosed (re. Claim 8) wherein said service of said server is permanently or temporarily connected as need requires to said receiver generating said question postings. (Frees-Column 5 Lines 10-15)

Art Unit: 2144

Frees disclosed (re. Claim 12) wherein said server providing said service is a stationary unit or a mobile unit and wherein said stationary unit or said mobile unit communicates via said at least one data exchange system with said receiver and/or said server. (Frees-Column 4 Lines 40-50)

Frees disclosed (re. Claim 13) wherein said server and said receiver alternately exchange said required information by means of said at least one data exchange system. (Frees-Figure 1B, Column 6 Lines 10-15, Column 12 Lines 65)

Frees disclosed (re. Claim 14) wherein said at least one data exchange system is global or spatially limited. (Frees-Column 5 Lines 40-50, Column 12 Lines 55-60)

Frees disclosed (re. Claim 16) wherein said information generated by said users in said data transmission network is generated in a standardized format. (Frees-Column 18 Lines 1-5)

Frees disclosed (re. Claim 17) wherein said users comprise machines and/or businesses engaged in planting, caring for, harvesting, storing and/or processing of

Art Unit: 2144

agricultural products; machine manufacturers; (Frees-Column 5 Lines 40-45) weather services; crop advisory services and planting.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Frees (US Patent 6769013) as applied above, and further in view of Curkendall (US Patent 6995675).

While Frees substantially disclosed the claimed invention, Frees did not disclose (re. Claim 15) wherein said stationary unit or said mobile unit have sensors for generating receiver-specific information, and said receiver-specific information is made available to at least one service provider and/or at least one further receiver by means of said at least one data exchange system.

Curkendall disclosed (re. Claim 15) wherein said stationary unit or said mobile unit have sensors for generating receiver-specific information, (Curkendall-Column 21

Art Unit: 2144

Lines 15-25) and said receiver-specific information is made available to at least one service provider and/or at least one further receiver by means of said at least one data exchange system. (Curkendall-Column 21 Lines 55-60)

Frees and Curkendall are analogous art because they present concepts and practices regarding collaboration and knowledge exchanges. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Curkendall into Frees. The motivation for said combination would have been to provide data collection in a seamless manner. (Curkendall-Column 5 Lines 55-60)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,9-11, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frees (US Patent 6769013) as applied above, and further in view of Rothkopf (US Publication 2002/0049727)

While Frees substantially disclosed the invention as claimed, Frees did not disclose (re. Claim 7) wherein said service of said server comprises referring to at least one other service of at least one other server and/or to sub-service providers.

Rothkopf disclosed (re. Claim 7) wherein said service of said server comprises referring to at least one other service of at least one other server and/or to sub-service providers. (Rothkopf-Paragraph 97-98)

Frees and Rothkopf are analogous art because they present concepts and practices regarding collaboration and knowledge exchanges. At the time of the invention it would have been obvious to combine Rothkopf into Frees. The motivation for said combination would have been to provide highly customized information sharing between users of common interest. (Rothkopf-Paragraph 5)

Claim 23 is rejected on the same basis as Claim 7.

Frees-Rothkopf disclosed (re. Claim 9,24) wherein said service of said server provides additional information that is not expressly required by said receiver, which increases service quality provided by said server. (Rothkopf-Paragraph 78)

Frees-Rothkopf disclosed (re. Claim 10,25) wherein said server providing said service obtains said additional information by retrieving said additional information from another service provided by another service provider. (Rothkopf-Paragraph 78)

Frees-Rothkopf disclosed (re. Claim 11) wherein services of a plurality of service providers are made available to said receiver by said server and/or a selection of said services is made available to said receiver by a number of different service providers. (Rothkopf-Paragraph 97-98)

Response to Arguments

Applicant's arguments filed 08/20/2007 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) regarding the USC 112 rejection [*in italics*]:

Receiving required information before the or by the time the information is needed would be understood by those in the art as reasonable...

The Examiner respectfully disagrees with the Applicant. The Applicant equates 'timeliness' with 'reasonable'. The Examiner notes that both terms are highly subjective

Art Unit: 2144

and would not be easily replicated by a person of ordinary skill in the art. The Examiner maintains the USC 112 rejection.

The Applicant presents the following argument(s) [*in italics*]:

amendment to claims 1 and 18 overcome the rejections of claims because Frees does not disclose or suggest a system or method for optimizing a processing chain and/or a management chain for producing agricultural products... the Examiner cites Frees, column 5, lines 40-45... Applicant has carefully reviewed Frees and has found no such disclosure

The Examiner respectfully disagrees with the Applicant. Frees disclosed different types of businesses that may employ the collaboration system including industrial companies with national or international market, such as those for *producing agricultural products*.

The Examiner also notes that the amendments to the preamble of a claim are not given patentable weight.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are

Art Unit: 2144

applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

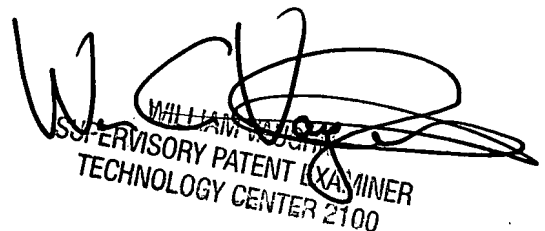
Art Unit: 2144

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gcb


WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

